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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/427,892	10/26/1999	RAIMUND WEIFFEN	4452-263	3906

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EXAMINER	
WILLIAMS, THOMAS J	
ART UNIT	**PAPER NUMBER**
3683	

DATE MAILED: 06/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/427,892	WEIFFEN ET AL.	
	Examiner	Art Unit	
	Thomas J. Williams	3683	

-- The MAILING DATE of this communicati n appears on the cover she t with the correspondence address --

Peri d for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 April 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,9 and 10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,9 and 10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

1. Acknowledgment is made in the receipt of amendment F filed April 14, 2003.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 9 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,244,063 to Laurien et al.

Re-claim 1, Laurien et al. discloses a vibration damper with a variable damping force, comprising:

a working cylinder 1 is filled with a damping medium;

a piston 2 is fastened to a piston rod 3, the piston divides the working cylinder into two working chambers 1' and 1";

first and second non-return valves, such as 17 and 18, are arranged in the piston for providing a damping force for the rebound and compression directions of the vibration damper, the first and second non-return valves are spring loaded check valves, which is consistent with the first and second non-return valves of the instant application, therefore the damping force of the first and second non-return valves of Laurien et al. will generate a soft characteristic of the vibration damper in the same manner as the non-return valves of the instant application;

a damping valve P5 is arranged in the piston and comprises a valve body 23 and a valve seat 24 that define a flow path therebetween, the damping valve has a selectively adjustable

variable damping action, see column 5 lines 11-16, and is arranged in series with each of the first and second non-return valves, the variable damping action will offset the soft characteristic generated by the damping force provided by each of the first and second non-return valves, such as by altering the level of current fed to the coils, the damping valve is in series with the first and second non-return valves thus comprising a sole passage for the damping medium through the piston between the two working spaces such that the damping medium is required to flow through the flow path of the damping valve when damping fluid is exchanged between the two working spaces in the rebound and compression directions.

During rebound fluid flows through non-return valve 17, into chamber 14, through the flow path defined by valve body 23 and seat 24, into passage 33 and finally through non-return valve 35. During compression fluid flows through non-return valve 18, into chamber 14, through the flow path defined by valve body 23 and seat 24, into passage 32 and finally through non-return valve 34. The damper of Laurien et al. has no other connection between the two working chambers.

Re-claim 2, the damping valve comprises and externally activated actuator 28 for adjusting the variable damping action, see column 7 lines 18-24.

Re-claim 3, the non-return valves are disclosed as being elastic plates and are thus considered spring loaded valve disks.

Re-claim 4, the damping valve is pre-controllable to a pre-controlled setting, such as when the magnet lacks current.

Re-claim 5, the damping valve comprises and electromagnet 26 and 27.

Re-claim 6, the first 17 and second 18 non-return valves are accommodated together with their valves seats. The non-return valves are accommodated in chamber 14 or part of plate 13.

Re-claim 7, the non-return valve are formed as part of assembly 12 and 13, and are thus considered pre-assembled prior to insertion into casing 10.

Re-claim 9, the first non-return valve 17 communicates with the upper working space 1' and the second non-return valve 18 communicates with the lower 1" working space, the damping valve 23 actuates via at least one flow connection 21 to the lower working space.

Re-claim 10, the valve body is in a precontrolled setting in one of the rebound and compression directions and is controllable via an actuator 28 in the other of the rebound and compression directions. The precontrolled setting occurs when the electromagnet is not charged.

Response to Arguments

4. Applicant's arguments filed April 14, 2003 have been fully considered but they are not persuasive. The instant disclosure fails to provide adequate information about how one achieves the claimed recitation of a "soft characteristic" performance. The disclosure merely states on page 10 lines 1-3 that the features of the non-return valves generate this soft characteristic. It is unclear to the examiner what features other than the valves being spring loaded that the applicant is referencing. Therefore, it is anticipated that the spring-loaded non-return valves in the damper of Laurien et al. will perform in the same manner as the applicant's spring-loaded non-return valves. The controllable valve P5 can be varied from a soft characteristic to a hard characteristic by altering the current level fed to the coils. A hard characteristic setting for valve P5 will offset the soft characteristic features of the non-return valves in the piston.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas Williams whose telephone number is (703) 305-1346. The examiner can normally be reached on Monday-Thursday from 6:30 AM to 4:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder, can be reached at (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

TJW

TJW

June 25, 2003

JACK LAVINDER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600